

25-8 VOLUNTARY RIVER CONSERVATION FUND.

25-8.1 Title; Authority.

A. Section 25-8 SFCC 1987 [PAE1] shall be known as the Voluntary River Conservation Fund and is enacted pursuant to the express statutory authority conferred upon municipalities to enact ordinances pursuant to its police power (N.M. Stat. Ann. §3-17-1 B (1978)) [PAE2] and pursuant to legislation that recognizes and promotes the public welfare and the conservation of water within a municipality and the right of a municipality to acquire and hold unused water rights in an amount no greater than its reasonable needs within forty (40) years (N.M. Stat. Ann. §72-1-9 (1978)) [PAE3]. It is also adopted pursuant to the city of Santa Fe's powers under its municipal charter, adopted effective March 15, 1998, pursuant to the Municipal Charter Act, sections 3-15-1 to 3-15-16 NMSA 1978, and Article 10, § 6 of the Constitution of New Mexico. [PAE4]

B. The city of Santa Fe is a charter municipality, empowered to make and enforce all laws concerning municipal affairs, subject to limitations of the city charter and the constitution and laws of the state of New Mexico. A reasonable exercise of municipal authority includes planning for the operation and growth of the municipal water utility, and planning for orderly urban development. Such planning includes the regulation of the amount and types of uses of water from the city's system to ensure that a reliable source of water exists to meet water requirements of the existing customers and that additional supplies of water in the system can be allocated for the care, conservation, and preservation of the waterways that pass by and through the city, in a manner consistent with priorities established by the governing body.

25-8.2 Voluntary River Conservation Fund.

A. The city shall create a voluntary contribution program/voluntary check-off provision on its monthly utility billing statements for the citizens to donate money to the city for deposit in the voluntary river conservation fund.

(1) Money deposited in the voluntary river conservation fund before March 16, 2013, shall be dedicated to the purchase, acquisition, long-term leasing of consumptive water rights in quantities sufficient to sustain the total water demand for either a living Santa Fe River or for the preservation and continuation of sufficient water flowing through the Rio Grande.

(2) Money deposited in the voluntary river conservation fund after March 16, 2013, shall be dedicated to projects that improve the flow of water in the Santa Fe River in ways that enhance the ecosystems of the Santa Fe River and its riparian corridor.

B. The governing body shall review for approval projects that are to be funded with voluntary river conservation funds.

C. The city shall make public on at least an annual basis regular reports of all funds allocated and all purchases, acquisition, leases of water rights made and proposed, ongoing and completed projects resulting from the use of the voluntary river conservation fund.

D. Subject to the Bateman Act, the city shall appropriate sufficient funding that matches (on a dollar for dollar basis) on an annual basis all money that is contributed by the public to the voluntary river conservation fund.

25-13 SANTA FE RIVER TARGET FLOW.

25-13.1 Short Title.

Section 25-13 [PAE5] may be cited as the "Santa Fe River Target Flow Ordinance."

25-13.2 Legislative Findings.

The governing body finds that:

A. Through the adoption of Resolution No. 2009-47 [PAE6], Resolution No. 2010-15 [PAE7] and Resolution No. 2011-28 [PAE8] the governing body authorized the city to support a living Santa Fe River by allowing water to bypass McClure and Nichols reservoirs in 2009, 2010 and 2011.

B. The Santa Fe river is an important element of the city of Santa Fe and the city's origin was due to the existence of the river.

C. There is widespread community support for maintaining a living Santa Fe river for recreational and cultural purposes.

D. A healthy river provides riparian habitat for wildlife and minimizes erosion and flood damage, removes pollutants from storm water and helps recharge groundwater.

E. The city has put to beneficial use its water right under Declaration No. 01278 and License 1677, (as issued by the state engineer) and intends to continue to put that water to beneficial use, and the adoption of this ordinance will not adversely affect the city's water right under Declaration No. 01278 and License 1677. [PAE9]

F. Implementation of this ordinance will not cause the city to operate the municipal water utility in any way that is inconsistent with any local, state or federal rules, regulations or laws.

25-13.3 Purpose.

The purpose of Section 25-13 SFCC 1987 [PAE10] is to formalize the city's commitment to provide for a target flow within the Santa Fe River in order to enhance and further the objective of restoring the Santa Fe river as a living river by committing to use up to one thousand (1,000) acre-feet per year (AFY) of the city's water supply, depending upon hydrologic conditions in the Santa Fe River watershed. This section shall be interpreted to further this objective.

25-13.5 Santa Fe River Target Flow.

The city water division shall operate the city's system of reservoirs to ensure that a bypass target flow of up to one thousand (1,000) AFY of river water flows into the Santa Fe river below Nichols reservoir. In average and wet conditions, the target flows will be one thousand (1,000) AFY. In drier years, seventy-five percent (75%) of the average watershed yield or less, the target flows shall be scaled in such a way that the target flows will equal the percentage anticipated watershed yield multiplied by one thousand (1,000) AFY. When the anticipated watershed yield is equal or less than thirty percent (30%) average watershed yield, the target flows will be three hundred (300) AFY. Additional information regarding the daily target flow pattern is provided for in the administrative procedures. Water that is released and/or spilled for flood management will count toward the daily target flows and target hydrograph when the flows are within the daily target flows of the target hydrograph. If water greater than the daily target flows is released or spilled into the river, the quantity of water that exceeds the daily bypass target flow will not be counted toward the target hydrograph. Except for flood management as described above, the water for the target hydrograph shall not include water released for any other purpose at the time of release, provided that nothing in this section shall require the release of bypass water if the release might jeopardize the city's water right under License 1677 and Declaration 01728 [PAE11].

25-13.6 Coordination with Santa Fe River Community Events.

When possible, target flows and target hydrographs shall be patterned to support community events scheduled along the Santa Fe river.

25-13.7 Water Emergency Target Flow Adjustment.

A. Pursuant to subsection 25-5.6 SFCC 1987 [PAE12], upon declaration of a water emergency, the city manager is authorized to adjust target flows to the Santa Fe river.

- (1) For the "Water Warning — Orange" implementation stage, target flows to the Santa Fe river may be suspended.
- (2) For the "Water Emergency — Red" implementation stage, target flows to the Santa Fe river shall be suspended.

B. The administrative procedures provide the detailed process for adjusting target flows to the Santa Fe river during a declared water emergency.

25-13.8 Reporting and Review.

Annually city staff shall provide a report to the governing body summarizing the previous year's target flows and projection for the next year's target flows. The annual report shall provide the governing body the opportunity to review this section. Additional information regarding accounting and reporting is provided for in the administrative procedures.

25-13.9 Effective Date.

This section shall become effective five (5) days after publication of adoption.